



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4026

Introduced 2/28/2005, by Rep. Dave Winters

SYNOPSIS AS INTRODUCED:

115 ILCS 5/12
115 ILCS 5/13

from Ch. 48, par. 1712
from Ch. 48, par. 1713

Amends the Illinois Educational Labor Relations Act. With regard to school districts, provides that an educational employee may not engage in a strike and an educational employer may not institute a lockout if that action would cause an interruption of ongoing essential educational services. Instead, requires the parties to submit to binding arbitration. Also provides that it is unlawful for a person to instigate or induce or conspire with or encourage a person to engage in a strike, lockout, slowdown, or work stoppage if that action would cause an interruption of ongoing essential educational services. Provides that these provisions do not prohibit a strike or lockout that began before the start of the school year. Effective immediately.

LRB094 04015 NHT 42581 b

1 AN ACT regarding educational labor relations.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Educational Labor Relations Act is
5 amended by changing Sections 12 and 13 as follows:

6 (115 ILCS 5/12) (from Ch. 48, par. 1712)

7 Sec. 12. Impasse procedures.

8 (a) If the parties engaged in collective bargaining have
9 not reached an agreement by 90 days before the scheduled start
10 of the forthcoming school year, the parties shall notify the
11 Illinois Educational Labor Relations Board concerning the
12 status of negotiations.

13 Upon demand of either party, collective bargaining between
14 the employer and an exclusive bargaining representative must
15 begin within 60 days of the date of certification of the
16 representative by the Board, or in the case of an existing
17 exclusive bargaining representative, within 60 days of the
18 receipt by a party of a demand to bargain issued by the other
19 party. Once commenced, collective bargaining must continue for
20 at least a 60 day period, unless a contract is entered into.

21 Except as otherwise provided in subsection (b) of this
22 Section, if after a reasonable period of negotiation and within
23 45 days of the scheduled start of the forth-coming school year,
24 the parties engaged in collective bargaining have reached an
25 impasse, either party may petition the Board to initiate
26 mediation. Alternatively, the Board on its own motion may
27 initiate mediation during this period. However, mediation
28 shall be initiated by the Board at any time when jointly
29 requested by the parties and the services of the mediators
30 shall continuously be made available to the employer and to the
31 exclusive bargaining representative for purposes of
32 arbitration of grievances and mediation or arbitration of

1 contract disputes. If requested by the parties, the mediator
2 may perform fact-finding and in so doing conduct hearings and
3 make written findings and recommendations for resolution of the
4 dispute. Such mediation shall be provided by the Board and
5 shall be held before qualified impartial individuals. Nothing
6 prohibits the use of other individuals or organizations such as
7 the Federal Mediation and Conciliation Service or the American
8 Arbitration Association selected by both the exclusive
9 bargaining representative and the employer.

10 If the parties engaged in collective bargaining fail to
11 reach an agreement within 15 days of the scheduled start of the
12 forthcoming school year and have not requested mediation, the
13 Illinois Educational Labor Relations Board shall invoke
14 mediation, unless binding arbitration applies under subsection
15 (c) of Section 13 of this Act.

16 Whenever mediation is initiated or invoked under this
17 subsection (a), the parties may stipulate to defer selection of
18 a mediator in accordance with rules adopted by the Board.

19 (b) If, after a period of bargaining of at least 60 days, a
20 dispute or impasse exists between an employer whose territorial
21 boundaries are coterminous with those of a city having a
22 population in excess of 500,000 and the exclusive bargaining
23 representative over a subject or matter set forth in Section
24 4.5 of this Act, the parties shall submit the dispute or
25 impasse to the dispute resolution procedure agreed to between
26 the parties. The procedure shall provide for mediation of
27 disputes by a rotating mediation panel and may, at the request
28 of either party, include the issuance of advisory findings of
29 fact and recommendations.

30 (c) The costs of fact finding and mediation shall be shared
31 equally between the employer and the exclusive bargaining
32 agent, provided that, for purposes of mediation under this Act,
33 if either party requests the use of mediation services from the
34 Federal Mediation and Conciliation Service, the other party
35 shall either join in such request or bear the additional cost
36 of mediation services from another source.

1 (d) Nothing in this Act prevents an employer and an
2 exclusive bargaining representative from mutually submitting
3 to final and binding impartial arbitration unresolved issues
4 concerning the terms of a new collective bargaining agreement.

5 (Source: P.A. 93-3, eff. 4-16-03.)

6 (115 ILCS 5/13) (from Ch. 48, par. 1713)

7 Sec. 13. Strikes and lockouts.

8 (a) Notwithstanding the existence of any other provision in
9 this Act or other law, educational employees employed in school
10 districts organized under Article 34 of the School Code shall
11 not engage in a strike at any time during the 18 month period
12 that commences on the effective date of this amendatory Act of
13 1995. An educational employee employed in a school district
14 organized under Article 34 of the School Code who participates
15 in a strike in violation of this Section is subject to
16 discipline by the employer. In addition, no educational
17 employer organized under Article 34 of the School Code may pay
18 or cause to be paid to an educational employee who participates
19 in a strike in violation of this subsection any wages or other
20 compensation for any period during which an educational
21 employee participates in the strike, except for wages or
22 compensation earned before participation in the strike.
23 Notwithstanding the existence of any other provision in this
24 Act or other law, during the 18-month period that strikes are
25 prohibited under this subsection nothing in this subsection
26 shall be construed to require an educational employer to submit
27 to a binding dispute resolution process.

28 (b) Notwithstanding the existence of any other provision in
29 this Act or any other law, educational employees other than
30 those employed in a school district organized under Article 34
31 of the School Code and, after the expiration of the 18 month
32 period that commences on the effective date of this amendatory
33 Act of 1995, educational employees in a school district
34 organized under Article 34 of the School Code shall not engage
35 in a strike except under the following conditions:

1 (1) they are represented by an exclusive bargaining
2 representative;

3 (2) mediation has been used without success;

4 (3) at least 10 days have elapsed after a notice of
5 intent to strike has been given by the exclusive bargaining
6 representative to the educational employer, the regional
7 superintendent and the Illinois Educational Labor
8 Relations Board;

9 (4) the collective bargaining agreement between the
10 educational employer and educational employees, if any,
11 has expired; and

12 (5) the employer and the exclusive bargaining
13 representative have not mutually submitted the unresolved
14 issues to arbitration.

15 If, however, in the opinion of an employer the strike is or
16 has become a clear and present danger to the health or safety
17 of the public, the employer may initiate in the circuit court
18 of the county in which such danger exists an action for relief
19 which may include, but is not limited to, injunction. The court
20 may grant appropriate relief upon the finding that such clear
21 and present danger exists. An unfair practice or other evidence
22 of lack of clean hands by the educational employer is a defense
23 to such action. Except as provided for in this paragraph, the
24 jurisdiction of the court under this Section is limited by the
25 Labor Dispute Act.

26 (c) Notwithstanding the existence of any other provision in
27 this Act or any other law, with regard to school districts, an
28 educational employee may not engage in a strike and an
29 educational employer may not institute a lockout if that action
30 would cause an interruption of ongoing essential educational
31 services. Instead, the parties shall submit to binding
32 arbitration in accordance with procedures adopted by the Board.
33 It is unlawful for a person to instigate or induce or conspire
34 with or encourage a person to engage in a strike, lockout,
35 slowdown, or work stoppage if that action would cause an
36 interruption of ongoing essential educational services.

1 Nothing in this subsection (c) prohibits a strike or lockout
2 that began before the start of the school year.

3 (Source: P.A. 89-15, eff. 5-30-95; 90-548, eff. 1-1-98.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.